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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,994	02/08/2002	Jochen Ziegler	20 01 0281	2013

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EXAMINER

MARSH, STEVEN M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 02/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/071,994

Applicant(s)

ZIEGLER ET AL.

Examiner

Steven M Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is the first office action for U.S. Application 10/071,994 for a Supporting Device for a Portable Device filed by Jochen Ziegler on February 8, 2002.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "19" has been used to designate both a first swivel axis and bearing points. Reference character "23" has been used to designate both a second swivel axis and a support. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 1 and 2 are objected to because of the following informalities: The word "pivoting" should be deleted and replaced with - - pivotally - -. Appropriate correction is required. The word "perpendicular" should be replaced with - - perpendicularly - -.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, Applicant claims a first swivel shaft that runs parallel to a base and a second swivel shaft running parallel to the first swivel shaft. Applicant does not disclose what the "swivel" shafts are in the specification. "Swivel axis" are disclosed, but not shafts. Also, Applicant claims a lever that is pivotally mounted on one end "at the supporting frame between its ends, basically around a first swivel shaft running parallel to the base and which is on the other end pivotally mounted on the supporting plate between the sliding guide". It is not clear if Applicant is referring to the ends of the levers or the ends of the supporting frame. Claim 1 is being examined to the best extent possible.

In Claim 2, Applicant refers to a "third swivel shaft". Again, Applicant discloses a third swivel axis, but not a third swivel shaft. In Claim 3 Applicant claims that the "end of the supporting frame which is turned away from the sliding guide does not or only

insignificantly overlap the supporting area". It is not clear what Applicant deems as "insignificant" overlapping.

Claims 3 and 4 recite the limitation "the end of the supporting frame which is turned away from the sliding guide" in line 7 of claim 3 and line 3 of claim 4. There is insufficient antecedent basis for this limitation in the claim. These claims have not been searched as it is not clear what Applicant is claiming.

Claim 8 recites the limitation "each extension" in line 2. There is insufficient antecedent basis for this limitation in the claim. This claim has not been searched as it is not clear what Applicant is claiming.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5-7, 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,366,197 to Westland. Westland discloses a plastic (see col.5, lines 17-22) supporting device (10) that could support a portable device. The supporting device has a supporting plate (24) that is integral or can be attached to a device. There is a supporting frame (16) that can be mounted to a base at one end and which on the other end is arranged adjustable on at least one sliding guide (part that 66 is on). Westland discloses at least one lever (18) that is pivotally mounted around a first swivel

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shaft (at 76) between the ends of the supporting frame at one of its ends, and pivotally mounted to the supporting plate below the sliding guide around a second swivel shaft (at 72) running parallel to the first swivel shaft. The sliding guide has at least one locking recess along the edges bordering the support plate of the device in which the end of the supporting frame guided by the sliding guide engages positive-fit in order to support the base plate.

The end of the supporting frame arranged in the sliding guide is pivotally mounted around a third swivel shaft (at 67) which runs parallel to the first swivel shaft and is arranged adjustable perpendicularly to the first swivel shaft along the supporting plane. The sliding guide and kinematics developed between the supporting plate, supporting frame, and lever are selected in such a matter that the supporting frame can be adjusted to a nonuse position, wherein the supporting frame rests with its inside on a reverse side of the supporting plate facing the supporting frame, and in which the lever runs mostly parallel to the inside of the supporting frame and parallel to the reverse side of the supporting plate between the two. The supporting frame is countersunk in a recess in the reverse side of the supporting plate and the lever extends into a recess in the interior of the supporting frame (inside of 78) when the device is in the nonuse position. The device is separate from the supporting device, but becomes integral when attached to the quick connector (100 and 102) that secures the two.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Westland in view of Applicant's disclosure. Westland does not disclose a supporting device that supports a device for testing components of electrical circuits or optical networks, such as a TDR, OTDR, or WDM. However, Applicant discloses (page 1, lines 18 and 19) that swivel devices to be mounted to the back of this type of equipment are known. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have used the swivel device taught by Westland to support a device for testing components of electrical circuits or optical networks, because it is known in the art to use swivel devices to support such equipment, and therefore the type of swivel device used is a matter of engineering preference.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 5,451,025 to Hames

U.S. Patent 6,113,052 to Gentile et al.

U.S. Patent 4,196,674 to Van Laarhoven

U.S. Patent 5,797,578 to Graffeo et al.

U.S. Patent 4,618,119 to Powell

U.S. Patent 3,562,796 to Jacobson

U.S. Patent 6,216,377 B1 to Painsith

U.S. Patent 6,264,160 B1 to Wells

U.S. Patent 6,098,952 to Tonn

The above patents all disclose various types of support devices

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.


Steven Marsh

February 20, 2003


ANITA KING
PRIMARY EXAMINER